

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAY FRANCO & SONS, INC.,

Plaintiff/Appellee,

v.

CLEMENS FRANEK,

Defendants/Appellant.

Civil Action No. 08-Civ-0058

Consolidated with 08-cv-1313

**APPELLEE JAY FRANCO & SONS, INC.'S
DESIGNATION OF RECORD FOR APPEAL**

Appellee Jay Franco & Sons, Inc. hereby designates the following documents filed with the District Court to be incorporated as part of the record for appeal to the Seventh Circuit:

DOCUMENTS FILED IN CASE NO. 08-CV-0058

<u>Docket No.</u>	<u>Description</u>
41	MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment PLAINTIFF JAY FRANCO & SONS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT . (aac,) (Entered: 08/28/2008)
42	MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Notice Of Motion For Partial Summary Judgment . (aac,) (Entered: 08/28/2008)
43	MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Plaintiff Jay Franco & Sons, Inc's Memorandum In Support Of Its Motion For Partial Summary Judgment (aac,) (Entered: 08/28/2008)

- 44 MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Plaintiff Jay Franco & Sons, Inc.'s Local Rule 56.1(a)(3) Statement Of Material Facts As To Which There Is No Genuine Issue (aac,) (Entered: 08/28/2008)
- 45 MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Appendix of Exhibits In Support of Jay Franco & Sons, Inc.'s Partial Motion For Summary Judgment (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Errata 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26)(aac,) (Entered: 08/29/2008)
- 57 DECLARATION of Robert John Anders by Jay Franco & Sons, Inc. In Support Of Jay Franco & Sons, Inc.'s Partial Motion For Summary Judgment (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N)(aac,) (Entered: 09/02/2008)
- 46 Jay Franco & Sons, Inc.'s NOTICE of Motion by Ezra Sutton for presentment of motion for judgment 41 before Honorable Robert M. Dow Jr. on 5/21/2008 at 09:00 AM. (aac,) (Entered: 08/29/2008)
- 35 Jay Franco & Sons, Inc.'s ANSWER to counterclaim filed by Clemens Franek by Jay Franco & Sons, Inc.(Sutton, Ezra) (Entered: 05/20/2008)
- 40 MINUTE entry before the Honorable Ruben Castillo: Motion hearing held. Plaintiff's motion for leave to file reply memorandum in support of its motion for partial summary judgment of law in excess of 15 pages is granted. Reply brief is limited to 24 pages. Mailed notice (slb,) (Entered: 08/14/2008)
- 49 MINUTE entry before the Honorable Ruben Castillo: Motion hearing held. Plaintiff's motion for leave to file reply memorandum in support of its motion for partial summary judgment of law in excess of 15 pages is granted. Reply brief is limited to 24 pages. Mailed notice (aac,) (Entered: 09/02/2008)

- 50 REPLY by Jay Franco & Sons, Inc. to memorandum in opposition to motion 47 , response in opposition to motion 48 Plaintiff jay Franco & Sons, Inc.'s Reply memorandum in Support of its Motion for Partial Summary Judgment (Attachments: # 1 Supplement Plaintiff Franco's Responses to Defendant's Statement of Material Facts (1 - 29), # 2 Supplement Plaintiff jay Franco's Responses to Franek's Objections)(aac,) (Entered: 09/02/2008)
- 53 RESPONSE by Jay Franco & Sons, Inc.in Opposition to MOTION by Defendant Clemens Franek for leave to file Sur-Reply Brief 51 Plaintiff Jay Franco & Sons, Inc.'s Opposition to Defendant's Motion for Leave to File Sur-Reply Brief (aac,) (Entered: 09/02/2008)
- 54 MINUTE entry before the Honorable Robert M. Dow, Jr:The Court has before it Defendant's motion for leave to file a sur-reply brief 21 and Plaintiff's opposition 23 to that motion. The Court will take the motion under advisement and issue a ruling by mail after it has examined the reply brief, the motion, and the response. Notice of motion date of 8/28/08 is stricken and no appearances are necessary on that date. Mailed notice (aac,) (Entered: 09/02/2008)
- 68 MEMORANDUM Opinion and Order Signed by the Honorable Robert M. Dow, Jr on 3/13/2009.Mailed notice(tbk)(Entered: 03/13/2009)

DOCUMENTS FILED IN CASE NO. 08-CV-1313

<u>Docket No.</u>	<u>Description</u>
1	COMPLAINT filed by Jay Franco & Sons, Inc.; (Exhibits) Jury Demand. Filing fee \$ 350.(Poor Quality Original-Paper Document on File)(gej,) (Entered: 03/06/2008)
10	MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment PLAINTIFF JAY FRANCO & SONS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT (Sutton, Ezra) (Entered: 05/16/2008)
11	MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Notice Of Motion For Partial Summary Judgment (Sutton, Ezra) (Entered: 05/16/2008)

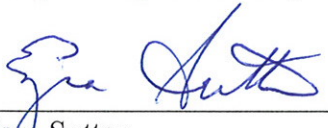
- 12 MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Plaintiff Jay Franco & Sons, Inc.'s Memorandum In Support Of Its Motion For Partial Summary Judgment (Sutton, Ezra) (Entered: 05/16/2008)
- 13 MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Plaintiff Jay Franco & Sons, Inc.'s Local Rule 56.1(a)(3) Statement Of Material Facts As To Which There Is No Genuine Issue (Sutton, Ezra) (Entered: 05/16/2008)
- 14 MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment Appendix of Exhibits In Support Of Jay Franco & Sons, Inc.'s Partial Motion For Summary Judgment (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26)(Sutton, Ezra) (Entered: 05/16/2008)
- 15 DECLARATION of Robert John Anders by Jay Franco & Sons, Inc. In Support Of Jay Franco & Sons, Inc.'s Partial Motion For Summary Judgment (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N)(Sutton, Ezra) (Entered: 05/16/2008)
- 16 Jay Franco & Sons, Inc.'s NOTICE of Motion by Ezra Sutton for presentment of motion for summary judgment 10 before Honorable Robert M. Dow Jr. on 5/21/2008 at 09:00 AM. (Sutton, Ezra) (Entered: 05/19/2008)
- 20 REPLY by Jay Franco & Sons, Inc. to memorandum in opposition to motion 17 , response in opposition to motion 18 Plaintiff jay Franco & Sons, Inc.'s Reply memorandum in Support of its Motion for Partial Summary Judgment (Attachments: # 1 Supplement Plaintiff Franco's Responses to Defendant's Statement of Material Facts (1 to 29), # 2 Supplement Plaintiff jay Franco's Responses to Franek's Objections)(Sutton, Ezra) (Entered: 08/14/2008)

23 RESPONSE by Jay Franco & Sons, Inc.in Opposition to MOTION by Defendant Clemens Franek for leave to file Sur-Reply Brief 21 Plaintiff Jay Franco & Sons, Inc.'s Opposition to Defendant's Motion for Leave to File Sur-Reply Brief (Sutton, Ezra) (Entered: 08/22/2008)

24 MINUTE entry before the Honorable Robert M. Dow, Jr:The Court has before it Defendant's motion for leave to file a sur-reply brief 21 and Plaintiff's opposition 23 to that motion. The Court will take the motion under advisement and issue a ruling by mail after it has examined the reply brief, the motion, and the response. Notice of motion date of 8/28/08 is stricken and no appearances are necessary on that date.Mailed notice (tbk,) (Entered: 08/25/2008)

Dated: May 13, 2009

Respectfully submitted,

By: 
Ezra Sutton
EZRA SUTTON, P.A.
900 Route 9, Suite 201
Woodbridge, New Jersey 07095
(732) 634-3520 - Office
(732) 634-3511 - Fax

Attorney for Plaintiff/Appellee
Jay Franco & Sons, Inc.